

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wolfgang Kalthoff et al.
Serial No.: 10/622,360
Filed: July 17, 2003
Customer No.: 50400
Title: Collaborative design process

Examiner: Thomas Dailey
Group Art Unit: 2452
Docket No.: 2058.213US1
Confirmation No.: 5356

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This Reply is presented in response to the Examiner's Answer, dated October 27, 2009, which was sent in answer to Appellants' Appeal Brief, filed on August 18, 2009. Appellants' Appeal Brief was filed in response to the rejection of claims 1, 5-6, and 12-87 of the above-identified application.

REMARKS

The Examiner's Answer ("Answer") dated October 27, 2009, includes substantially identical grounds for rejection as the last Final Office Action of claims 1, 5-6, and 12-87 based on the *Carter*, *Hurvig*, *Fabbio* and *Sweeney* references. Appellants respectfully maintain that the Appeal Brief, which is hereby incorporated by reference and reasserted in response, overcomes the original grounds of rejections. The following remarks provide particular clarifications to the previously presented arguments and respond to comments presented by the Examiner in the Answer.

Carter/Hurvig combination does not disclose "transmitting a locked data set"

Carter is directed at providing a hybrid database that combines the features of commercial databases and source code control systems.¹ The Office action cites the resident database that contains the first master file group² to show the stored data set recited in claim 1. Carter explains that when a file group is checked out by a client for alteration, the server records the master file

¹ Carter, 2: 48-50.

² Carter, 3: 52-57

group as locked. There is no indication that a file group transferred to the client in response to the client's request is a locked file group. On the contrary, Carter states that the file group is transferred to the client for the purposes of alteration, which suggests that the server, transfers an unlocked copy of the requested file group to the client. When, on the other hand, a master file group is locked on the server, a check out request from a client is denied.³ Carter, therefore, does not disclose and also teaches away from "transmitting the locked data set... to a second entity" recited in claim 1.

The feature of "transmitting the locked data set... to a second entity" recited in claim 1 is not present in Carter (as explained above) and also is not present in Hurvig that does not contemplate maintaining a locked data set at one entity and then transmitting the locked data set to another entity. There is no conceivable combination of Carter (that teaches away from "transmitting the locked data set... to a second entity") and Hurvig (that does not contemplate transmitting a locked data set to another entity) that would yield "transmitting the locked data set... to a second entity" recited in claim 1. Thus, the feature of "transmitting the locked data set... to a second entity" recited in claim 1 is not disclosed or suggested by the combination of Carter and Hurvig.

Examiner's Answer misstates the Appellant's argument and the technique described in Carter

In the Answer, the Examiner states that "the appellant contends that Carter reference fails to disclose 'transmitting the locked data set ... to a second entity,' ... since the file group in Carter is not 'locked' but unlocked..."⁴ This is not an accurate representation of the Appellants' assertion. The assertion set forth in the Appeal brief and earlier in this reply is that there is no indication that a file group *transferred* to the client in response to the client's request is indeed a locked file group. There is every indication in Carter that that, while the state of the master file group is recorded as locked after granting a check-out request to a client, it is *an unlocked copy* of the file group that is being sent to the client.

³ Carter, 5: 18-26.

⁴ Answer, Response to Argument.

Further in the Answer, the Examiner states that in Carter "the file group is locked (with respect to all clients but the one that will check it out for alteration)."⁵ This is a misstatement of Carter, because Carter does not contemplate locking a file group with respect to some clients but not others. The locked state on a file group in Carter causes a check out request to be denied (regardless of the identity of the requesting client). In other words, in Carter, if the state of a file group is not "locked," then a checkout request is granted to any requesting client (provided the requesting client can supply the correct password). Conversely, if the state of a file group is set as being "locked," a check-out request from any client is denied. The Examiner further refers to "reversing the locked data set at the second entity" in Carter, even though there is no mention in Carter of the operation of "reversing." Thus, in order to justify the reliance on Carter in showing "transmitting the locked data set... to a second entity," the Examiner employs statements that are not supported by Carter.

The Carter/Hurvig combination fails to disclose or suggest the operation of "reversing" recited in claim 1

In the Answer, the Examiner asserts that Carter discloses "reversing the locked data set ... such that the locked data set becomes an unlocked data set being available for modification" and refers, again, to the passage in Carter at 5: 18-26. As explained above, in Carter, a check out request from a client is denied if a master file group is locked on the server and therefore, because "transmitting the locked data set... to a second entity" never takes place in Carter, the operation of reversing thus transmitted locked data set at the second entity is not only never mentioned but would be meaningless in the context of Carter. Combining Carter with Hurvig (that does not refer to files stored in the resource 208 as being "locked" or "unlocked" but instead discusses the concept of an opportunistic lock that may be selectively granted to a requesting process⁶) does not remedy this deficiency of Carter and does not yield "reversing the locked data set ... such that the locked data set becomes an unlocked data set being available for modification" recited in claim 1.

Thus, the combination of Carter and Hurvig fails to disclose or suggest a method

⁵ Answer, Response to Argument..

⁶ Hurvig, 9: 14-24.

comprising "reversing the locked data set and the unlocked data set at the second entity, such that the locked data set becomes an unlocked data set being available for modification and the unlocked data set becomes a locked data set being protected from modification," as recited in claim 1.

Combining Hurvig with Carter does not yield the method of claim 1

Combining Hurvig with Carter does not yield the method of claim 1, because combining Carter (transferring a copy of a file group to a client and then preventing access to the corresponding master file group by other clients) and Hurvig (granting a process an opportunistic lock on a file to prevent other processes from obtaining a copy of the file) can never result in a scenario where a locked data set and an unlocked data set are maintained at a first entity as a single data set, the unlocked data set is available for modification and the locked data set is protected from modification, but at a second entity that unlocked data set becomes locked and that locked data set becomes unlocked. The Examiner suggests, in the Advisory Action and later in the Answer, that unlocked and locked data described in the references yields the inventions of our independent claims because "simply combining the two data sets into one was a known technique." The Examiner does not, however, take into consideration the fact that the "locked" and "unlocked" states described in the prior art are always with reference to the entire data set and thus mutually exclusive, which does not allow for a scenario where a data set (that is being transmitted to an entity) comprises locked and unlocked portions at the same time. Thus, the combination of Carter and Hurvig fails to disclose or suggest "transmitting the locked data set and the unlocked data set [included in a stored data set] to a second entity," as recited in claim 1.

The reasoning articulated above is applicable to independent claims 20, 33, 40, 59, and 71 and their respective dependent claims *mutatis mutandis*. Claims 20, 33, 40, 59, and 71 and their respective dependent claims are therefore patentable for the reasons articulated above.

It is respectfully submitted that the Examiner failed to make *prima facie* showing of obviousness under 35 USC § 103(a) in view of the combination of Carter and Hurvig. It is respectfully requested that the rejection of claims 1, 5, 15-18, 20-30, 33-34, 36-37, 39-50, 55-57, 59-69, 71-72, 74-75, and 77 as obvious under 35 USC § 103(a) in view of the combination of

Carter and Hurvig be reversed.

CONCLUSION

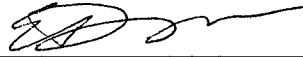
The pending claims subject to this appeal are believed patentable. Appellants respectfully submit that the claims are in condition for allowance and request the Board issue an order to withdraw the rejection of claims 1, 5-6, and 12-87.

The Examiner is invited to telephone the undersigned at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: MS Appeals, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 23 day of December, 2009.

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Signature 